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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/342,280	06/29/1999	STEPHEN M. HEIMAN		6324

7590 02/27/2003

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EXAMINER

GOODWIN, JEANNE M

ART UNIT PAPER NUMBER

2841

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/342,280

Applicant(s)

HEIMAN ET AL.

Examiner

Jeanne-Marguerite Goodwin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 30-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Allowable Subject Matter*

1. The indicated allowability of claims 30-34 is withdrawn in view of the newly discovered reference(s) to US Patent 6,012,995 to Martin [hereinafter Martin] and US Patent 5,646,911 to Davis [hereinafter Davis]. Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 103*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 30-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Davis.

Martin discloses a player device comprising a display (14), a transceiver (101), a micro controller controlled by either a remote (101) or a control panel (16), and a (digital) voice chip (107) for announcing various announcements through a speaker (108). Martin discloses all the subject matter claimed by applicant with the exception of the limitation stated in claim 35, i.e., a timer and a means to operate the timer; and the limitation stated in claim 37, i.e., a second timer.

With respect to the limitation stated in claim 35, i.e., a timer and a means to operate the timer: Davis discloses a player device comprising a timer (30) positioned within a housing and in communication with a display means (20) for displaying information generated by the timer

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and input means (35) through which a player can program the timer to track an elapsed period of time. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the timer assembly, as taught by Davis, to the player device, as taught by Martin, in order to be able to provide a time that marks specific amounts of time that corresponds to periods prescribed by the rules of a game, as already suggested by Davis.

With respect to the limitation stated in claim 37, i.e., a second timer: It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. See *St. Regis Paper Co. v Bemis Co.*, 193 USPQ 8. Furthermore, the timer disclosed by Davis can be program to track any elapsed period of time, e.g., short, long, etc.

With respect to claims 30-34: the method steps will be met during the normal operation of the device stated above.

### ***Response to Arguments***

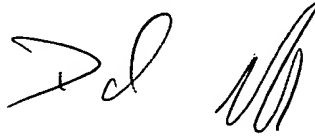
4. Applicant's arguments with respect to claims 30-39 have been considered but are moot in view of the new ground(s) of rejection. Furthermore, with regards to the device being operated by a referee, it should be noted that the applicant can claim a system but cannot claim a person. Moreover, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. See *Ex parte Marsham*, 2 USPQ2d 1647 (1987).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communication from the examiner

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should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (703) 305-0264. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



JMG  
Feb. 24, 2003

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